

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO
RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO,
et al.,

Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**INFORMATIVE MOTION REGARDING THE GOVERNMENT OF PUERTO RICO'S
RESPONSE TO COVID-19 AND THE IMPACT ON THESE TITLE III CASES**

To the Honorable United States District Judge Laura Taylor Swain:

The Puerto Rico Fiscal Agency and Financial Advisory Authority ("AAFAF"), through its undersigned counsel, hereby states as follows:

1. Puerto Rico, along with the rest of the world, is facing an unprecedented challenge based on the outbreak of a respiratory illness caused by a novel (new) coronavirus, known as COVID-19. Cases of COVID-19 are being reported in a growing number of countries internationally, including the United States. As of the morning of March 26, 2020, Puerto Rico has 64 confirmed cases of COVID-19, including 2 deaths. This is a global humanitarian challenge,

¹ The Debtors in these Title III cases, along with each Debtor's respective Title III case number listed as a bankruptcy case number due to software limitations and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the "Commonwealth") (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481), (ii) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566(LTS)) (Last Four Digits of Federal Tax ID: 9686), (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808), and (iv) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-4780 (LTS)) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5233-LTS) (Last Four Digits of Federal Tax ID: 3801).

and many people are courageously battling the virus and putting their own lives at risk to help others in need. Puerto Rico is no exception. Addressing this humanitarian challenge is the Government's top priority at this moment. To this end, the Government has taken a series of aggressive measures to combat the virus and protect the people of Puerto Rico.

A. The Government's Response to COVID-19

2. In response to the outbreak, on March 15, 2020, Governor Wanda Vázquez Garced signed *Executive Order of the Governor of Puerto Rico, Hon. Wanda Vázquez Garced, to Make Viable the Necessary Government and Private Closures to Fight the Effects of Coronavirus (COVID-19) and Control the Risk of Contagion on Our Island*, Administrative Bulletin No. OE-2020-023 (the "Executive Order"). The Executive Order directed the "closure of all businesses in Puerto Rico as of today, March 15 at 6:00 p.m. until March 30, 2020." The Executive Order also imposes a curfew from 9:00 p.m. through 5:00 a.m. during which time all residents of Puerto Rico must remain in their residences. Today, the Governor announced that, based on recommendations from a state medical advisory task force, and due to the continuing state of emergency, the closure of business and curfew established in the Executive Order will be extended until April 12, 2020. Other measures, including further control on citizen movements and business closures, will be part of an upcoming amended executive order.

3. On March 18, 2020, the Governor requested the Federal Aviation Administration (the "FAA") to take a series of steps to limit air traffic into Puerto Rico, including suspending all domestic and international flights to and from Puerto Rico. In response, the FAA agreed that all commercial flights must now land at Luis Muñoz Marín International Airport, located in San Juan. The Governor is requiring that every passenger, both domestic and international, arriving in Puerto Rico remain quarantined for 14 days.

4. As of today, the Governor has issued an additional seven executive orders in response to COVID-19 to address, among other things, the homeless, school and private sector closures, acquisition of goods and services, use of the National Guard, prompt diagnosis of COVID-19, special leave for public employees affected by COVID-19, the creation of a medical task force to advise the Governor, and the state of emergency due to the pandemic. Taken together, these measures help protect the physical, mental, and economic health of the people of Puerto Rico, while preserving the social fabric of the Island's diverse communities. The Governor continues to maintain direct communication with mayors, members of the legislature, agency heads, private sector leaders, and all units of the Government to ensure that the response to COVID-19 is appropriate.

5. The spread of COVID-19 and the economic effects therefrom, including from the closure of all non-essential businesses, remains highly uncertain. At this point, most of the world's major economies are experiencing partial or even near complete lockdowns. At a minimum, short term economic activity will be severely impacted for several months, with certain critical sectors of the Puerto Rico economy—such as tourism—being particularly hard hit. The depth and duration of the economic downturn will depend largely on the trajectory of the virus and the ability of policy decisions to sustain households and businesses during this difficult period.

6. To address the economic impact of COVID-19, on March 23, 2020, the Governor, with the support of the Financial Oversight and Management Board for Puerto Rico (the "Oversight Board"), announced an initial \$787 million economic short term stimulus package (the "Stimulus Package"). The Stimulus Package is among the most complete and ambitious packages awarded to date at the state level to face this unprecedented crisis.

7. The Stimulus Package includes a series of short-term measures that aspire to mitigate the impact on the security and prosperity of the people of Puerto Rico during this crisis.

The Stimulus Package includes measures such as:

- Paying in full of all salaries and wages to the employees of the central Government and its public corporations throughout the emergency period (the Governor also urged the Island's 78 municipalities to maintain their total payroll for their workers).
- Postponing the 2019 income tax filing deadline to July 15, 2020.
- Suspending the collection of the Commonwealth sales-and-use tax (the "SUT") at the Island's ports and within the supply chain for the next three months.
- Waiving penalties for non-compliance with bi-monthly SUT reporting and remittance, as well as missed payments on estimated income tax bills for two months.
- Suspending a 10% withholding tax on professional services for three months.
- Providing \$500 cash payments to self-employed individuals, for a total of \$100 million.
- Distributing \$1,500 cash payments to businesses that have shuttered operations because of the Executive Order, for a total of \$60 million.
- Earmarking funds for bonuses of up to \$4,000 for nurses in public and private hospitals, professional service nurses, and department of correctional health nurses, and bonuses of up to \$2,500 for healthcare technicians.
- Earmarking funds for bonuses of \$1,000 to public sector pharmacists, medical technologists and Resident MDs.
- Earmarking funds for bonuses of between \$3,500 to \$4,000 for emergency medical personnel, police, firefighters, emergency management and 9-1-1 personnel, prison guards, Special Investigations and Forensics personnel, municipal police and firefighters, certain front-line correctional staff, and other first responders.
- Earmarking funds for bonuses of up to \$2,000 for on-duty court staff and Hacienda internal revenue agents.
- Allocating more than \$243 million for the Department of Education to support and enable online learning while schools are closed, to buy tablets for every student and teacher, and provide teachers and students with software and training.

- Allocating \$1.7 million to the UPR for research and development related to COVID-19.
- Allocating \$6 million to HTA to help offset cost of moratorium on tolls.
- Investing \$50 million in hospitals and public safety, to restock medical supplies and invest in equipment for a period of at least two months.
- Allocating \$100 million for municipalities to provide support for lost revenues over the next two months as a result of the emergency measures implemented to fight COVID-19.
- Commitment to request the federal government to make available unemployment benefits for self-employed workers. Also, a commitment to accelerate an already statutorily scheduled increase in employment benefits for workers and people who have been sent home without pay.
- Ordering that utility services will not be suspended during the emergency period.
- Mandating agency heads to present work-from-home plans for all areas where remote work is possible within 48 hours (which plans will cover professional services providers, businesses, private suppliers and nonprofits).
- Agreement by the Island's banks and credit unions to establish 90-day moratoriums on the payment of mortgage, auto, personal and commercial loans and credit card bills for clients who request it and qualify.

8. This Stimulus Package, which was first announced by the Governor in a public address on March 23, 2020,² is the first phase of an economic and fiscal plan that will allow the Government to respond effectively to the crisis, protect, and support the productive sectors of the Puerto Rico economy. The measures also appear to have the support of the Legislative Assembly of Puerto Rico.

9. The United States Congress is also expected to approve a \$2 trillion federal stimulus package to address the economic impact of COVID-19.³ It is expected that this federal stimulus package will include relief for American citizens living in Puerto Rico. The Government continues

² A translated copy of the public address is attached hereto as Exhibit A.

³ On March 25, 2020, the Senate unanimously approved the federal stimulus bill and it is expected to be voted on by the House of Representatives on March 27, 2020.

to monitor the details of the federal stimulus package and will consider additional measures to the extent necessary to complement the federal stimulus package, including for those sectors that have particular importance to the well-being of the Puerto Rico economy.

10. Due to the federal disaster declaration by President Donald J. Trump on March 20, 2020 in connection with COVID-19, Puerto Rico qualifies for assistance from FEMA's public assistance program for reimbursement of certain expenses relating to the pandemic. These expenses include, among others, medical equipment, medical installations, medicines, food purchase and distribution. On March 24, 2020, the Governor requested additional assistance from FEMA for unemployment benefits to residents of Puerto Rico that are laid-off as a result of the COVID-19 emergency.

11. In addition to the COVID-19 crisis, the Government continues to coordinate relief and funding efforts to address the natural disasters that affected Puerto Rico recently, including the continued recovery following Hurricanes Irma and Maria and the earthquakes that impacted (and continue to impact) the southern and southwestern part of Puerto Rico. Since AAFAF's last update to the Court during the March 3, 2020 omnibus hearing, AAFAF has the following new updates to report:

- An additional \$116 Million in funds have been obligated by FEMA for 280 projects related to the recovery and reconstruction of Puerto Rico.
- Material progress continues in relief efforts relating to the earthquakes and there are no longer any refugees in the Government base camps run by the Puerto Rico National Guard.
- As of March 16, 2020, approximately 803 schools, or 94% of all schools, were open for classes (excluding closures for COVID-19 discussed below). Mobile classrooms and the use of alternative venues were in place for those students in the southern part of Puerto Rico whose schools had not yet re-opened.
- As to PREPA, it continues working with FEMA on alternatives to develop new generation capacity for the system. Among these alternatives, as AAFAF informed during the prior two omnibus hearings, PREPA is in the process of issuing an RFP

to solicit up to 500MW of emergency and new generation to help make up for the approximately 800MW currently lost from the Costa Sur plant as a result of the recent earthquakes. The Puerto Rico Energy Bureau approved the RFP and PREPA has issued the RFP on March 12, 2020. Concurrently, PREPA's management and board of directors continues working on alternatives to restore unit 5 of the Costa Sur plant and the generation capacity from that unit. PREPA is also in active conversations with FEMA and its insurance companies regarding the damage claims to the Costa Sur plant as a result of the earthquakes.

12. As a result of the Executive Order, all public schools in Puerto Rico have been closed since March 16, 2020. However, the Department of Education has continued to provide services to students through online classes, use of the EduPR application, and learning modules available online. As detailed above, the Government has allocated more than \$243 million to the Department of Education as part of the Stimulus Package for materials and technology to further support online learning.

13. Finally, pursuant to the Executive Order, the Government is operating on a partial shutdown and thus some Government services and payment procedures during this emergency period may be impacted.

B. Delay in Fiscal Plan and Plan of Adjustment Process

14. On March 16, 2020, AAFAF Executive Director Omar J. Marrero-Diaz formally requested the Oversight Board to revise its approval schedule for the new Commonwealth fiscal plan in light of the COVID-19 pandemic and the anticipated negative impact on Puerto Rico's economy. The Oversight Board granted the request, extending the time to submit a revised proposed fiscal plan to April 15, 2020. The Government also requested similar extensions with respect to other public corporations that are impacted by the ongoing crisis and have upcoming fiscal plan deadlines.

15. On March 23, 2020, the Oversight Board filed an urgent motion requesting to adjourn consideration of the Disclosure Statement related to the Commonwealth's proposed Plan

of Adjustment, currently scheduled for June 3 and June 4, 2020. *See* ECF No. 12485. The Government supports the Oversight Board's request and believes that in light of the ongoing pandemic and resulting uncertainty, it is critical that the Disclosure Statement hearing and related deadlines be postponed. During this adjournment, the Government, in collaboration with the Oversight Board, will work to assess the economic impact of COVID-19 on Puerto Rico's debt service capacity under the proposed Plan of Adjustment (or any future plan).

16. Now more than ever the Government will remain vigilant that any Plan of Adjustment takes into consideration the economic reality of the Island and protects the most vulnerable citizens of Puerto Rico, who in the span of almost three years, have suffered the impact of hurricanes, earthquakes and pandemics.

Dated: March 26, 2020
San Juan, Puerto Rico

Respectfully submitted,

O'MELVENY & MYERS LLP

/s/ John J. Rapisardi
John J. Rapisardi
Nancy A. Mitchell
7 Times Square
New York, NY 10036
Telephone: (212) 326-2000
Facsimile: (212) 326-2061
Email: jrapisardi@omm.com
suhland@omm.com

-and-

Peter Friedman
1625 Eye Street, NW
Washington, DC 20006
Telephone: (202) 383-5300
Facsimile: (202) 383-5414
Email: pfriedman@omm.com

*Attorneys for the Puerto Rico Fiscal
Agency and Financial Advisory
Authority*

MARINI PIETRANTONI MUÑOZ LLC

/s/ Luis C. Marini-Biaggi
Luis C. Marini-Biaggi
USDC No. 222301
Carolina Velaz-Rivero
USDC No. 300913
250 Ponce de León Ave., Suite 900
San Juan, Puerto Rico 00918
Tel: (787) 705-2171
Fax: (787) 936-7494

*Attorneys for the Puerto Rico Fiscal Agency
and Financial Advisory Authority*

Exhibit A